



Appeal Decisions

Site visit made on 8 February 2023

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH JP

an Inspector appointed by the Secretary of State

Decision date: 10 February 2023

Appeal A: Ref APP/P5870/C/22/3291194 27 Egham Crescent, North Cheam SM3 9AL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Ray Farrington against an enforcement notice issued by the Council of the London Borough of Sutton.
 - The enforcement notice, numbered EC2019/0260, was issued on 31 December 2021.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the Land from a single dwelling house into two separate, self-contained planning units of residential accommodation.
 - The requirements of the notice (as set out in section 5 of the notice) are to:
 - (i) Cease the use of the Land as two self-contained units of residential accommodation; and
 - (ii) Remove all kitchen facilities, including kitchen units, cooking facilities, and worktops from one of the units; and
 - (iii) Create an internal opening at both ground and first floor level in accordance with approved plan 7380/19 dated 3 October 2019 that accompanied planning permission DM2019/0169; and
 - (iv) Remove the second internal staircase that has been installed in the part one part two storey extension; and
 - (v) Remove from the Land all building materials, rubble and equipment arising from compliance with steps 5(ii), (iii) and (iv) above.
 - The period for compliance with the requirements is 12 months.
 - The appeal is proceeding on the ground set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. Since an appeal on ground (a) has been made, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
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Appeal B: Ref APP/P5870//W/21/3283973 27 Egham Crescent, North Cheam SM3 9AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Farrington against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2020/00992, dated 6 July 2020, was refused by notice dated 1 April 2021.
 - The development is use of two-storey side extension as a separate one-bedroom dwelling, and the erection of an additional first floor side extension.
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Decisions

1. Appeal A is dismissed and the enforcement notice is upheld.
Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
 2. Appeal B is dismissed.
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Procedural Matters

3. The development in Appeal B is largely the same development as that targeted by the notice in Appeal A, save that it is also proposed to erect an additional first floor side extension which would increase the size of the separate one-bedroom dwelling which has already been created without permission.
4. On my site visit, I found that the internal configurations of the 2 dwellings differed from those detailed in the plans submitted by the appellant. However, in the absence of information to the contrary, I shall take Drawing 7382/19 ('As Existing') dated April 2019 to be the breach of planning control attacked by the notice when it was issued on 31 December 2021 (and for which permission is sought by the deemed planning application made under Appeal A). Drawing 7409/20 dated April 2020 ('Proposed First Floor Side Extension and Change of Use to Two Self Contained Dwellings') details the development for which planning permission is sought under Appeal B.

Main Issues

5. The main issues are the effect of the developments upon:
 - the provision of family and/or high-quality housing; and
 - carbon emissions and water efficiency.

Reasons

6. Policy 10 (*Loss of Housing and Conversions*) of the London Borough of Sutton Local Plan 2016-2031 (LP) is clear that the acceptability of conversions will only be acceptable which result in better-designed, high-quality new housing.
7. Prior to development, the site was occupied by a single reasonably-sized and extended end-of-terrace house. While I have seen no supporting data, the appellant's submissions appear to accept what the Council's Delegated Report on the refused application (Appeal B) says as regards 3 plus-bedroom market houses being "the most required type of housing within the Borough". It is uncontentious between the parties that the pre-development property fell into this category, recognised in the LP as representing family housing.
8. The implication of the internal space figures cited by the appellant¹ is that the Gross Internal Area (GIA) of the new dwelling created within the existing side extension is 53m², which is below the minimum standards² set down by the development plan. Accordingly, this accommodation (to which Appeal A relates) represents cramped and low-quality housing, as seen on my site visit. Notwithstanding, the additional first floor side extension proposed under Appeal B would increase the size of the one-bedroom dwelling to slightly above the minimum GIA standard.
9. Significantly, I note from Drawings 7382/19 and 7409/20 that the dwelling retained within the original shell of the dwellinghouse (following the developments in Appeals A and B respectively) includes two bedrooms only. This would not retain a unit of family housing. I note that a study room is

¹ Paragraph 4.13 of the Appellant's Statement of Case

² Technical housing standards – nationally described space standard (March 2015); Department for Communities and Local Government

marked on the first floor but it would appear from the Drawings that this would be below the minimum dimensions required by the standards were it used as a bedroom.

10. Consequently, while I accept that two new residential dwellings would result under the appeal schemes, I am not satisfied from what I have seen that they constitute better designed or higher quality housing than the one which previously existed, to make the loss of family housing acceptable. Accordingly the appeal developments are in conflict with Policy 10 of the LP.
11. I agree with the appellant (and the Council's sustainability officer) that, if it were not for the appeals failing on the above issue, it would have been possible to impose conditions that would have made the developments acceptable as regards approval of carbon emission and water efficiency details.
12. I have been invited to grant planning permission for a temporary period (of 12-18 months) to allow the housing situation of the existing occupier of the one-bedroom unit to be resolved. However, having undertaken a proportionality assessment, I decline this suggestion due to the extent of the planning harm including the existing unsuitability of the occupier's substandard accommodation. I also note that, as regards the enforcement action which is the subject of Appeal A, there is in any respect a 12-month compliance period.
13. I accept that the developments provide a net increase of one dwelling towards meeting London's housing needs, on previously developed land, and that other than the harm I have identified the appeal developments are largely neutral as regards other impacts such as upon highway safety and the character and appearance of the area. However, these factors, do not outweigh the harm caused.
14. For these reasons, the appeal developments do not accord with the development plan and this finding is not outweighed by other considerations.

Conclusions

15. For the reasons given above I conclude that the Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.
16. For the reasons given above I conclude that Appeal B should be dismissed.

Andrew Walker

INSPECTOR